COMMISSION

COMMISSION DECISION

of 28 July 1993

establishing the list of products provided for in Article 8 of Council Regulation (EEC) No 339/93

(93/583/EEC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation (EEC) No 339/93 of 8 February 1993 on checks for conformity with the rules on product safety, and in particular Article 8 thereof (1),

Whereas Regulation (EEC) No 339/93 lays down that the Commission will draw up a list of the products more particularly covered by the second indent of Article 2, in accordance with the procedure referred to in Article 9 ;

Whereas this list must be drawn up and updated on the basis of experience and/or the rules on product safety and wihtin the scope of Community rules ;

Whereas it has emerged from the preparatory work relating to that Regulation and from the work on abolishing controls at internal frontiers that Member States pay particular attention to toys, medicinal products and foodstuffs in the context of checks for conformity with the rules on product safety ;

Whereas toys constitute products aimed at a particularly vulnerable category of consumers who, given the normal behaviour of children, do not display the 'average caution' shown by adult consumers ;

Whereas medicinal products and foodstuffs constitute the categories of products whose consumption influences the health of their users most directly ;

Whereas it is necessary, therefore, to include toys, medicional products and foodstuffs in the list of products more particularly covered by the second indent of Article 2 of Regulation (EEC) No 339/93 ;

Whereas the measures provided for by this Decision comply with the opinion of the committee referred to in Article 9 of the said Regulation,

HAS ADOPTED THIS DECISION :

Article 1

The list of products more particularly covered by the second indent of Article 2 of Regulation (EEC) No 339/93 shall comprise the following categories of products :

— toys,
— medicinal products for human use,
— veterinary medicinal products,
— foodstuffs,

dealt with by Community rules whose main provisions are referred to, for information purposes, in the Annex to this Decision.

Article 2

Member States shall inform the Commission of the provisions which they have adopted in order to implement this Decision within one month of its notification.

The Commission shall notify the other Member States of those provisions.

Article 3

This Decision is addressed to the Member States.

Done at Brussels, 28 July 1993.

For the Commission
Raniero VANNI D'ARCHIRAFI
Member of the Commission

(1) OJ No L 40, 17. 2. 1993, p. 1.

ANNEX

COMMUNITY RULES REFERRED TO IN ARTICLE 1

Toys : Council Directive 88/378/EEC (1)

Main points :

The toys covered by this Decision are defined in Article 1 of Directive 88/378/EEC on the approximation of the laws of the Member States concerning the safey of toys : Annex I to that Directive lists those products which are not regarded as toys within the meaning of the Directive.

Community rules required toys or their packaging to bear the 'EC' mark, in accordance with Article 11 of Directive 88/378/EEC.

As the Directive applies to toys to be placed on the market as such, the EC mark is required only on :

— finished products that are,

— presented in a manner (packaging, marking, labelling) indicating that they are to be placed on the market without further processing.

Medicinal products : Council Directives 75/319/EEC (2) and 81/851/EEC (3)

Main points :

As regards medicinal products for human use, Article 16 of amended Directive 75/319/EEC provides that 'Member States shall take all appropriate measures to ensure that the manufacture of proprietary medicinal products is subject to the holding of an authorization (. . .)', and adds that the authorization 'shall also be required for imports coming from third countries into a Member State'.

Article 24 of amended Directive 81/851/EEC makes similar provision for veterinary medicinal products.

The issue of the authorization is dependent on the ability and obligation of the manufacturer and/or importer to carry out a number of analyses to ensure that the imported products conform to the rules on marketing.

As the authorization system makes it compulsory to analyse all imported medicinal products, customs authorities may, in general, limit their control of such products to checking the existence of the said authorization (pursuant to Directives 75/319/EEC and 81/851/EEC).

Foodstuffs : Council Directive 79/112/EEC (4)

Main points :

Article 11 of amended Directive 79/112/EEC on the labelling, presentation and advertising of foodstuffs provides in particular that the outside packaging of pre-packaged foodstuffs marketed prior to their sale to the ultimate consumer or intended for restaurants, hospitals and other similar mass caterers must carry at least the particulars provided for in subparagraphs (1), (4) and (6) of Article 3 (1) and, where appropriate, in Article 9a. The compulsory particulars are : the name under which the product is sold, the date of minimum durability or, for highly perishable foodstuffs, the date preceded by the words 'use before' followed by a description of the storage conditions, the name or business name and address of the manufacturer or packager, or of a seller established within the Community.

The other labelling particulars provided for by Directive 79/112/EEC may be given only on the trade documents either accompanying the foodstuffs, or sent in advance of or at the same time as the delivery.

(1) OJ No L 187, 16. 7. 1988, p. 1.
(2) OJ No L 147, 9. 6. 1975, p. 13.
(3) OJ No L 317, 6. 11. 1981, p. 1.
(4) OJ No L 33, 8. 2. 1979, p. 1.

The presence of the minimum requirements relating to name, date, and the name or business name and address of the manufacturer, packager or seller established within the Community is essential to ensure that the product presented to the ultimate consumer is labelled in accordance with Directive 79/112/EEC, which is aimed at protecting and informing consumers.

Checks by customs authorities on the presence of such compulsory particulars may be summed up as follows :

— they should take into account the provisions of Directive 79/112/EEC, in particular those relating to the name of the product, the date, and the name of the person responsible for marketing it, and the exemptions provided for (e.g. Article 9 (6) on waiving of the date requirement) ;

— checks should be made only on pre-packaged goods intended for the ultimate consumer (a 'pre-packaged foodstuff' within the meaning of the definition in Article 1 (3) (b) need not carry all the labelling information provided for by Directive 79/12/EEC if the abovementioned minimum compulsory particulars appear on the outside packaging).